

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. 2001-25
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY

AGAINST

NATIONAL STEEL
AND
SHIPBUILDING COMPANY

The San Diego Regional Water Quality Control Board (hereinafter SDRWQCB) having held a public hearing on March 14, 2001, to hear evidence and comments on the allegations contained in *Complaint No. 2001-24*, dated January 30, 2001, and on the recommendation for administrative assessment of Civil Liability in the amount of one hundred seventy-four thousand eight hundred one dollars (\$174,801) finds as follows:

1. The toxicity limit in *Order No. 97-36, Discharge Specification B.8.*, states the following:

Effective July 1, 1999, in a 96-hour static or continuous flow bioassay (toxicity) test, undiluted stormwater runoff associated with industrial activity which is discharged to San Diego Bay shall not produce less than 90 percent survival, 50 percent of the time, and not less than 70 percent survival 10 percent of the time, using a standard test species and protocol approved by the Executive Officer. Until July 1, 1999, this level of acute toxicity shall be a performance goal. [EBEP]

2. According to the *National Steel and Shipbuilding Company's (NASSCO) 1999-2000 Annual Stormwater Monitoring Report*, on February 12, 2000, NASSCO sampled storm water runoff from 21 discharge points at its facility. All 21 discharge points had a toxic response that violated the storm water discharge specification in *Order No. 97-36*. Of the 21 storm water samples, 6 discharges had a 0% survival response, 14 discharges had 50% or less survival response, 17 discharges had 75% or less survival response, and all 21 discharges had 85% or less survival response. The results

- of samples analyzed at each discharge point are considered a separate violation.
3. For the storm event on February 12, 2000, the reported storm water discharge flow was 396,378 gallons.
 4. *California Regional Water Quality Control Board, San Diego Region, Analysis of Administrative Civil Liability, Complaint No. 2001-24, National Steel and Shipbuilding Company, January 30, 2001*, contains an analysis of the *Porter-Cologne Water Quality Control Act, California Water Code (CWC) § 13385* factors supporting the assessment of civil liability. Assessment of civil liability in the amount of \$174,801 in this matter is based on a summation of the proposed liability for each violation and for the volume of the discharge pursuant CWC § 13385 et seq.
 5. On March 14, 2001, during the public hearing for *Complaint No. 2001-24*, the Regional Board changed the civil liability for the number of discharge points to a total of thirteen (13) discharge points to San Diego Bay. Additionally, the Regional Board changed the assessed liability for each discharge point to six thousand dollars (\$6,000). Therefore, the Regional Board imposed a civil liability for the 13 discharge points of seventy eight thousand dollars (\$78,000).
 6. Also on March 14, 2001, the Regional Board imposed a civil liability of \$0.15 per gallon of discharge as recommended and calculated in *Complaint No. 2001-24*. According to *Complaint No. 2001-24* the total liability for the volume of discharge is fifty seven thousand eight hundred one dollars (\$57,801). The reported volume of discharge was 396,378 gallons, of which 11,000 gallons were subtracted for a total volume subject to liability of approximately 385,378 gallons.
 7. The total civil liability in this matter is one hundred thirty-five thousand eight hundred one dollars (\$135,801).
 8. This enforcement action is exempt from the provisions of the *California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, § 21000 et seq.)* in accordance with the CWC § 13389.

IT IS HEREBY ORDERED that civil liability is imposed on NASSCO in the amount of one hundred thirty-five thousand eight hundred one dollars (\$135,801) payable immediately, and that the rationale, as modified by the Regional Board during the public hearing on this matter, for the assessment contained in *California Regional Water Quality Control Board, San Diego Region, Analysis of Administrative Civil Liability, Complaint No. 2001-24, National Steel and Shipbuilding Company, January 30, 2001*, is hereby incorporated into this Order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on March 14, 2001.

JOHN H. ROBERTUS
Executive Officer